
**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Proposed Revision of Maximum Collection)	
Amounts for Schools and Libraries and)	Public Notice, DA 98-872
Rural Health Care Providers, Public Notice)	
)	
)	

**COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY,
PACIFIC BELL, AND NEVADA BELL**

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May 22, 1998

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TO: Common Carrier Bureau

**COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY,
PACIFIC BELL, AND NEVADA BELL**

Southwestern Bell Telephone, Pacific Bell, and Nevada Bell (collectively, the "SBC LECs") file these Comments in response to the Public Notice, DA 98-872, released on May 13, 1998, pertaining to the implementation of the universal support mechanisms for schools and libraries and for rural health care.¹ In a letter addressed to FCC Chairman William E. Kennard from Ira Fishman, Chief Executive Officer of the Schools and Libraries Corporation, projections

¹ *Common Carrier Bureau Seeks Comment on Proposed Revision of 1998 Collection Amounts for Schools and Libraries and Rural Health Care Universal Service Support Mechanisms*, CC Docket No. 96-45, Public Notice, DA 98-872 (released May 13, 1998) ("Public Notice").

On the same day, the Common Carrier Bureau issued the *Proposed Third Quarter 1998 Universal Service Contribution Factors Announced*, CC Docket No. 96-45, Public Notice, DA 98-856 (released May 13, 1998), in which the Bureau projected significant increases in the third-quarter funding demand for schools and libraries (\$690 million for discounts, \$694.4 million total) and for health care (\$25 million).

for the school/library fund were estimated at \$2.02 billion for 1998.² In apparent reaction to the consequence of the fund size on customer bills, the Common Carrier Bureau has proposed 1998 funding caps of \$1.67 billion for the school/library fund, and \$100 million for the health care fund.³ While the proposal would not increase the quarterly collection rate for health care,⁴ a significant average quarterly collection rate increase of \$212 million is proposed for the school/library fund,⁵ representing a 68% increase in the average quarterly collection for 1998.

The School/Library and Health Care Programs Need to Be Modified in More Fundamental Ways than Proposed by the Bureau

The SBC LECs remain convinced that the school/library and health care funds, as constituted, exceed the authority provided to the Commission and are otherwise unlawful.⁶ As a result of their unauthorized breadth and resultant size, the funds are drawing significant attention and intense scrutiny from a variety of quarters, including FCC Commissioners, members of Congress, and State regulators. The attention and scrutiny have undoubtedly resulted in part due

² *Report in Response to Senate Bill 1768 and Conference Report on H.R. 3579* (released May 8, 1998), Attachment D ("May 8th Report to Congress").

³ Public Notice, p. 3 and note 16.

⁴ Public Notice, p. 3.

⁵ Public Notice, p. 3 and note 16.

⁶ *See Texas Office of Public Utility Counsel v. FCC*, United States Fifth Circuit Court of Appeals, No. 97-60421 and consolidated cases, "Brief for Petitioners GTE Entities, Southwestern Bell Telephone Company, and BellSouth Corporation," filed February 20, 1998 ("5th Circuit Brief").

to complaints of telecommunications consumers who have become aware of these programs as they see prices rise as a result.⁷

The Bureau's proposal is an apparent attempt to avoid fueling the increasingly hostile public reaction against the funds. The Bureau is thus proposing to limit 1998 funding for the two programs, and tie the size and timing of the funding to price cap LEC interstate access charge reductions. Given that price cap LECs are unlawfully required to recover their contributions within those access rates,⁸ the Bureau is proposing that projected rate reductions be exactly offset by the increase in contributions by the price cap LECs. The Bureau's proposal is an apparent attempt to minimize obvious price increases and have a substantial portion of the increased contributions buried in toll rates.

The SBC LECs are supportive of any action that brings the school/library and health care programs in line with the authority granted by Congress, and sound public policy and administrative practices. The Commission could, for example, permanently decrease the size and scope of the funds by limiting the programs to the scope authorized by Congress -- funding only advanced telecommunications services, funding only rural health care providers. Inasmuch as the *Funding Request Analysis* attached to Mr. Fishman's letter reveals that over 67% of the

⁷ In addition to the scrutiny the Congress is giving the implementation and administration of the funds, they are increasingly being covered in the popular press (*e.g.*, May 11, 1998, edition of "Time" magazine. The article that addresses the school/library fund can be found at "http://www.pathfinder.com/time/magazine/1998/dom/980525/nation.gores_costly_high1.html").

⁸ See 5th Circuit Brief, pp. 96-99.

school/library fund is forecasted for discounts for Internet access and internal connections,⁹ such decreases in scope would clearly result in lower interstate access rates.

The temporary reduction proposed by the Bureau does not accomplish a similar result. The Bureau instead assures everyone that "we remain committed" to providing support to the same categories of services and items and at the same level. Public Notice, pp. 2, 3. In that re-affirmation, the Bureau ultimately demonstrates that the proposed method of addressing the increasing dissatisfaction with the programs will not result in the required modifications.

The Carryover-Funding Provision Should Not Apply to the Proposal

Unaddressed in the Public Notice is the application of the carryover funding provision applicable to the school/library fund contained in 47 C.F.R. § 54.507(a). That provision permits up to one-half of any "unused portion of funding authority" for 1998 to be carried over and used

⁹ May 8th Report to Congress, Attachment D. Discounts for internal connections by themselves account for over 63% of the total forecast expenditures.

in calendar 1998, and similar treatment in calendar 2000 for unused portions from 1998 and 1999. If the Bureau's proposal is adopted, it should be made clear that the \$580 million not made available in calendar 1998 will not be used in calculating any carryover funding for calendar years 1999 and 2000.

Respectfully submitted,

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NEVADA BELL

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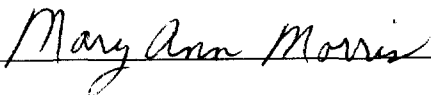
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May 22, 1998

CERTIFICATE OF SERVICE

I, Mary Ann Morris, hereby certify that the foregoing, "COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY, PACIFIC BELL, AND NEVADA BELL," in CC Docket Nos. 96-45, Public Notice, DA 98-872 have been filed this 22TH day of May, 1998 to the Parties of Record.

A handwritten signature in cursive script, reading "Mary Ann Morris", is written over a horizontal line.

Mary Ann Morris

May 22, 1998

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